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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/717,147	11/21/2000	Subhash C. Roy	TRA-ONEX-002	1902

7590 06/05/2002
David P. Gordon, Esq.
65 Woods End Road
Stamford, CT 06905

EXAMINER

NGUYEN, BRIAN D

ART UNIT	PAPER NUMBER
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2661

DATE MAILED: 06/05/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/717,147

Applicant(s)

ROY ET AL.

Examiner

Brian D Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on the application filed 11/21/00.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 November 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Drawings

1. The drawings are objected to because in Figure 3, "7,560 bytes/row" should change to -- 7,650 bytes/row --. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "52 bytes" in claims 5 and 6 is not described in the specification.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claim 1 is vague and indefinite because "N" is not defined.

Claims 3 and 8 recite the limitation "each stage of the switch" are vague and indefinite because it is unclear if the switch includes multiple stages.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 1, 2, and 20-22 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4-6, and 8-9 of copending

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Application No. 09/717,999. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of the claimed invention are described in claims 1, 4-6, and 8-9 of copending Application No. 09/717,999 with different wording or arrangement. Therefore, it is obvious..

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 5-6, and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Little (6,292,486) in view of Parrella et al (6,205,155) and Chow et al (6,148,349).

Regarding claims 1, 5-6, and 11-12, Little discloses a method in a communication switch comprising generating a repeating data frame having a plurality of rows (see abstract; Figures 1-3; and col. 3, lines 53-54). Little does not specifically disclose making requests during row N for space in row N+1 through in-band or out-of-band and granting requests through an out-of-band link. However, making requests during current row or frame for the transmission of information during the next row or frame and using of in-band and out-of-band links are well known in the art.

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Parrella discloses that requests must be made in advance, for example making requests during row/frame N for space in row/frame N+1 (see Figure 2; col. 1, lines 13-17 and 49-61) and Chow discloses the use of in-band and out-of-band links for transmission of messages (see col. 26, lines 26-27). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to making and granting requests as taught by Parrella and using in-band or out-of-band links for transmitting messages as taught by Chow in the system of Little so as to use and assign bandwidth effectively to users.

9. Claims 2-4 and 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Little (6,292,486) in view of Parrella et al (6,205,155) and Chow et al (6,148,349) as applied to claims 1, 5-6, and 11-12 above, and further in view of Lea (6,115,373).

Regarding claims 2 and 7, Little, Parrella, and Chow disclose all the claimed subject matter as described in previous paragraph except for each request includes priority level information. However, Lea discloses the request includes priority information (see col. 5, lines 31-34). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to includes the priority information in the request so as to grant access to the more important users.

Regarding claims 3-4 and 8-10, Little, Parrella, Chow, and Lea does not explicitly disclose the limitation such as buffering the request at each stage and discarding requests for all following segments of a packet when a request for one segment of the packet has been discarded. However, these features are well known in the art. When there is a multiple-stage switch each stage includes

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buffers to store information before the information is forwarded to the next stage and it is also well known that when a request for one segment of a packet has been discarded, the requests for all following segments of the packet are also discarded.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Adam et al (6,320,861), Kato (5,844,918), Soumiya et al (5,940,375), Hatono et al (5,959,991), Watanabe et al (6,157,613).

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Nguyen whose telephone number is (703) 305-5133. The examiner can normally be reach on Monday-Thursday from 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Olms, can be reach on (703) 305-4703. The fax phone number for this Group is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-0377

Any response to this action should be mailed to:

Commissioner of Patens and Trademarks

Washington, D.C. 20231

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or faxed to:

(703) 872-9314 (for formal communications intended for entry)

Or:

(703) 872-9314 (for informal or draft communications, please label

“PROPOSED” or DRAFT”)

Hand-delivered response should be brought to Crystal Park II, 2021 Crystal Drive,
Arlington VA., Sixth Floor (Receptionist).

May 20, 2002



Brian Nguyen



**DANG TON
PRIMARY EXAMINER**